S.B. CIVIL WRIT PETITION NO.2347/2005

Sohan Lal Vs. Ladhu Ram and ors.

Date : 21.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. CS Kotwani for Mr. DC Khatri, for the petitioner.

- - - - -

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated by which his right to file reply has been closed by the executing court.

According to learned counsel for the petitioner, the Court below is proceeding highhandedly and even issued a notice of personal appearance to Hitesh Kumar, copy of notice is placed on record as Annex.3.

The facts which the learned counsel for the petitioner has narrated reveals that a suit for possession was decreed and the petitioner purchased the property which was subject matter of the suit. The purchase is admittedly during the pendency of the suit. After the decree for possession, the petitioner wants to file reply to the application filed under Order 21 Rule 97 CPC which application has been filed by the petitioner's own alleged tenant to obstruct the execution on the ground that he is in actual physical possession of the disputed property.

The executing court, after recording the reasons for closing the right of the petitioner to file reply to the application, closed the petitioner's right to file reply.

After going through the reasons assigned by the court below, I do not find that the court below has acted illegally or with material irregularity in exercise of its jurisdiction. The facts clearly reveal that the petitioner is purchaser of the property during pendency of the suit and the objections have been filed by the petitioner's own tenant under Order 21 Rule 97 CPC.

So far as the contention of the petitioner that the court below has acted beyond jurisdiction or highhandedly by issuing notice Annex.3 is concerned, the petitioner should move appropriate application before this Court on administrative side. However, this court cannot examine these facts.

In view of the above discussion, this Court is not inclined to interfere in the impugned order.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya